

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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|-------------------------------|---|----------------------|
| United States of America, |) | File No. 21-cr-228 |
| |) | (DWF-ECW) |
| Plaintiffs, |) | |
| |) | |
| vs. |) | TESTIMONY OF OFFICER |
| |) | ADAM EVANS |
| Marques Dwell Armstrong, Jr., |) | Courtroom 7C |
| |) | St. Paul, Minnesota |
| |) | February 15, 2023 |
| Defendant. |) | 10:32 a.m. |

BEFORE THE HONORABLE DONOVAN W. FRANK
UNITED STATES DISTRICT COURT JUDGE
(TRIAL)

APPEARANCES:

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Proceedings reported by certified stenographer;
transcript produced with computer.

I N D E XPAGE**ADAM EVANS**

Direct Examination By Mr. Bejar

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Cross-Examination By Ms. Atwal

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GOVERNMENT EXHIBITS

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1 P R O C E E D I N G S

2 IN OPEN COURT

3 (JURY PRESENT)

4 (Defendant present)

5 (10:32 a.m.)

6 THE COURT: May all be seated. Thank you. You
7 may proceed, counsel, with your next witness as soon as the
8 jury is ready.

9 MR. BEJAR: Thank you, Your Honor.

10 The United States calls Firearms Enforcement
11 Officer Adam Evans.

12 THE COURT: If you want to step forward, sir, to
13 the front of the -- right in front of the large screen here
14 what we call the witness box.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: And then before you step in if you'd
17 want to raise your right hand, please.

18 Do you swear the testimony you shall give relative
19 to this case now under consideration shall be the truth and
20 nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE COURT: There's a couple steps up there.

23 And if you want to go up and have a seat in the
24 chair. Then as I tell every witness, between sliding that
25 chair close to the microphone, and you can also move the

1 microphone because it's not fastened, you'll have to be
2 quite close to the mic, otherwise it doesn't pick you up.

3 If you would please state your full name and spell
4 your last name.

5 THE WITNESS: My name is Adam Evans, E-V-A-N-S.

6 THE COURT: You may inquire, counsel.

7 MR. BEJAR: Thank you, Your Honor.

8 **(Adam Evans)**

9 **DIRECT EXAMINATION**

10 BY MR. BEJAR:

11 Q. Good morning, Mr. Evans. How are you employed?

12 A. I'm employed from the Bureau of Alcohol, Tobacco,
13 Firearms and Explosives. I work in the firearms and
14 ammunition technology division and I am -- my official title
15 is firearms enforcement officer.

16 Q. What are the ATF's firearms, ammunition technology
17 division located?

18 A. We are located in Martinsburg, West Virginia.

19 Q. And the firearms and ammunition technology division is
20 lovingly referred to as the FATD sometimes; is that right?

21 A. Yes, it is.

22 Q. F-A-T-D?

23 A. Yes.

24 Q. How long have you worked as a firearms enforcement for
25 ATF with FATD?

1 A. I've been a firearms enforcement officer for
2 approximately two years.

3 Q. What is the role and function of the firearms and
4 ammunition technology division?

5 A. Our division is the primary technical division for the
6 Bureau of Alcohol, Tobacco, Firearms and Explosives.

7 We provide technical analysis of firearms and
8 ammunition to make classifications under federal law.

9 Q. Excuse me. Are there certain ways particular firearms
10 are defined and classified under federal law?

11 A. There are certain ways. We primarily classify firearms
12 under the Gun Control Act of 1968 and the National Firearms
13 Act under -- I'm sorry, of 1934.

14 Q. As part of your duties, and training, and
15 responsibilities as a firearms enforcement officer, excuse
16 me, Your Honor, are you specifically familiar with those
17 laws, regulations, terms and definitions as they apply to
18 those firearms?

19 A. I am. We focus on those laws and regulations on a daily
20 basis and apply them to firearms of many different types.

21 Q. How long have you been with ATF?

22 A. For approximately eight years. Before I was a firearms
23 enforcement officer I was a firearms industry operations
24 investigator. I did about five-and-a-half years as an
25 investigator going out and doing compliance inspections of

1 firearms, dealers, and manufacturing facilities.

2 Q. ATF is the federal agency that is authorized under
3 federal law with regulating the firearms industry; is that
4 correct?

5 A. Yes, it is.

6 Q. So what are your primary duties and responsibilities as
7 a firearms enforcement officer, FEO?

8 A. As an FEO we classify firearms under specific types of
9 naming conventions for making them applicable to the laws.

10 For instance, we breakdown the Gun Control Act to
11 see if it is a firearm or if it is not. As the Gun Control
12 Act requires interstate nexus, that's a primary role to
13 establish the understanding of where the firearms came from
14 and if it transferred across state lines.

15 For the National Firearms Act, we primarily focus
16 on eight firearms. And they are broken down as a firearm
17 into different subcategories. For instance, machine gun or
18 shotgun, short-barreled shotgun, and short-barreled rifle.

19 Q. Do you have any prior law enforcement or military
20 experience?

21 A. Prior to working for the ATF I was a bomb technician for
22 the Department of Homeland Security. And before that I was
23 in the United States Marine Corps for eight years, serving
24 as an explosive disposal technician.

25 Q. Could you tell the jury about any specialized training

1 you have received as an FEO?

2 A. As an FEO, we have pretty rigorous, rigorous training of
3 about 800 hours of on-the-job training. That consists of
4 doing a lot of research, historical papers, understanding
5 and functioning different firearms, and really breaking down
6 how firearms function. And at the end of all of that
7 on-the-job training and time spent researching into the
8 different firearms.

9 We go through a certification panel interview and
10 sit down with a -- some of the senior FEOs who just ask very
11 elaborate questions to understand the extreme depth of
12 firearms and my understanding.

13 Q. Have you attended any armorer's courses?

14 A. I have. As an FEO I've attended around six or seven
15 armorer's courses under different platforms.

16 Primarily I attend one for a Glock firearm. I
17 attended one for an AR-15 or an M-16 firearm. One for a
18 silencers and other various firearm types.

19 Q. What do you learn as these armorer's courses,
20 specifically like for Glock?

21 A. The armorer's courses are hosted by the manufacturing
22 companies most of the time.

23 The armorer's courses are designed to teach you
24 the intricacies of the firearm itself and how they are meant
25 to function and designed to function. They are also

1 teaching you how to disassemble them properly, look for
2 discrepancies or worn parts that need to be replaced or if
3 there is any malfunctions, how to replace it and fix what
4 needs to be fixed and then reassemble them again.

5 Q. Have you ever toured any firearms factories?

6 A. I have toured numerous factors as an FEO and I did many
7 compliance inspections as an industry operations
8 investigator. Around probably 100 different facilities to
9 see how they are made.

10 Q. Based on your training and experience, are you familiar
11 with machine guns specifically?

12 A. I am very familiar with machine guns. As an FEO I've
13 done over a 100 different exhibit evaluations that were
14 machine guns.

15 And prior to that, in my time in the Marine Corps
16 I maintained and disassembled around 300 machine guns or so
17 that was maintained by our unit overseas while deployed to
18 Iraq.

19 Q. Fair to say as an ATF FEO you are intimately familiar
20 with a variety of firearms, including especially machine
21 guns, how they operate and function, how they're classified
22 and defined under federal laws and regulations?

23 A. Yes, sir.

24 Q. What kinds of firearms do you receive as an FEO for
25 examination in testing and classifying?

1 A. Our primary firearm that we receive for identification
2 and classification is typically a machine gun. Secondary to
3 that would be silencers. And then there's a few other types
4 that we get periodically, but the primary is machine gun.

5 Q. And specifically have you had the opportunity to
6 inspect, examine, and classify Glock firearms with a switch?

7 A. Yes. I've done classifications on over 100 exhibits
8 that were Glock switches and roughly 70 different cases that
9 were multiple types of machine guns.

10 Q. Now you've mentioned the term "Glock switch." Could you
11 please tell the jury just generally what a switch is and
12 what it does.

13 A. A Glock switch or a Glock chip is a common term used to
14 describe a machine gun conversion device.

15 A machine gun conversion device is any part or
16 combination of parts that you can put together to change a
17 semi-automatic firearm into a machine gun.

18 Typically, a Glock switch maintains or consists of
19 three different components, a housing, a selector switch and
20 a leg. Those three pieces combined work together to change
21 that firearm from a semi-automatic firearm into a machine
22 gun.

23 Q. And why is it commonly referred to as a switch? Is it
24 because of one of those components that you mentioned?

25 A. The selector switch can usually be pushed from one side

1 to the other to switch between semi-automatic or automatic
2 fire.

3 Q. That's the intended function of it?

4 A. That is the intended function, however most of the time
5 it does not function that way.

6 Q. Are these Glock switches commercially available and sold
7 in gun shops and stores?

8 A. They are not commercially available or sold. Most of
9 the time they are imported from overseas for whoever is the
10 cheapest bidder to get them into the United States.

11 They can be made within the United States.
12 Primarily you'll see them in hobbyist houses or something as
13 they are illegally made. They are -- can be 3D printed or
14 milled by a machinist who has the proper machine to cut out
15 the metal.

16 Q. Can you legally purchase a Glock fireman with a switch
17 installed from a gun shop or commercial dealer?

18 A. No, you cannot. The firearms -- the machine gun ban
19 that was put in place in 1986 made it where no person,
20 unlicensed person, can purchase a conversion part like that
21 and apply it into your firearm to make a machine gun.

22 Q. Does Glock itself manufacture firearms with switches
23 installed?

24 A. Glock has never made a Glock switch. It is a name that
25 was adopted by the people who wanted to put them onto

1 Glock-type firearms. And all of such switches or conversion
2 devices are contraband because they are not made.

3 Q. So if it doesn't come from the manufacturer and you
4 can't get it from a gun shop, it's got to be installed after
5 the firearm was manufactured and sold, correct?

6 A. That is correct.

7 Q. Talk a little bit about your training and experience,
8 and knowledge about how well these aftermarket switches are
9 manufactured to function properly.

10 A. The typical conversion device that we see come in,
11 primarily a Glock switch, is the number one type conversion
12 device that we do classifications on.

13 They are very poorly made. Again, some of them
14 can be 3D printed, which raises their own issues when you're
15 dealing with 3D printing. However in this case, we're not
16 referring to 3D printed conversion device.

17 The metal components are often made by different
18 manufacturers, the housing would be made at one facility,
19 the leg would be made at another, and the selector switch
20 would be made at another.

21 They're imported into the country usually in
22 separate packages and that way they're not tracked by
23 customs as they come in and then whenever the end user gets
24 ahold of them, they have to compile the couple units
25 together to make Glock switches out of those three

1 components.

2 Those three components are not regulated by OEM
3 specifications. They are not made by specific manufacturers
4 that meet a criteria held to a certain standard. They are
5 often poor quality. They get worn out very quickly and
6 they're made with very cheap metal.

7 Q. So is it common for a Glock switch to fire in automatic
8 mode even if it's selected in semi-automatic mode?

9 A. That's very common.

10 A lot of times they're intended to be having a
11 selector switch available for semi-automatic but oftentimes
12 that switch, the selector switch, will actually shift while
13 firing and it will deviate between semi-automatic or
14 automatic on an infrequent basis.

15 Oftentimes, I would say over 75 percent of the
16 time, my cases have resulted in full automatic fire, whether
17 it be in semi-automatic mode or automatic fire.

18 Q. Did you receive evidence at your worksite, at the
19 firearms, ammunition, technology division, to inspect and
20 classify in this case?

21 A. Yes, I did.

22 MR. BEJAR: May I approach, Your Honor?

23 THE COURT: You may.

24 BY MR. BEJAR:

25 Q. I've placed in front of you Government Exhibit 18. Do

1 you recognize that?

2 A. I do. This is the box that I received for
3 classification. It has my signature on the evidence
4 transmittal tag saying that I took custody of it on
5 January 23rd of 2023.

6 Q. And if you can open the box.

7 Do you recognize that as the firearm that you
8 received and examined?

9 A. I do. This is the firearm that I identified and
10 examined, as well as the extended magazine inside the box.

11 Q. And when you received the firearm, it had the -- it had
12 a switch installed; is that correct?

13 A. That is correct.

14 Q. Is this generally in the same condition that you
15 received it when you -- is it generally in the same
16 condition as when you received it for examination, excuse
17 me?

18 A. Yes, it is.

19 Q. So tell the jury generally what you did at the start of
20 your examination and inspection of this firearm.

21 A. When I first receive evidence, the first thing that I do
22 is make sure that it is safe to handle and make sure that
23 there is no live ammunition inside of it, that way nothing
24 happens while doing a visual inspection.

25 After I do a visual inspection to make sure it's

1 safe to handle, I do an overall view of the firearm trying
2 to identify any manufacturer's markings or characteristics
3 where I can identify what type of firearm this is.

4 While doing an overall examination of this, I
5 identified that it was a -- excuse me, a Glock-type firearm
6 made in Austria imported by Glock, Inc., in Smyrna, Georgia,
7 and it is a model 26 which shoots a 9x19 caliber round.

8 On the rearward side of the slide I noticed that
9 it did not have a standard Glock backplate and it had been
10 modified to accept a machine conversion device on the back
11 of the firearm.

12 Q. What did you -- after you did this sort of overall
13 inspection what did you do next in terms of the physical
14 exam of the firearm?

15 A. After I did the overall inspection, the next thing to do
16 is disassemble and look for modifications and identify what
17 has been done to the firearm.

18 To do that I had to remove the Glock switch that
19 was on the back of the firearm slide and then I removed the
20 slide from the firearm to look at the internal components.

21 Q. And during your inspection and examination did you
22 compare the -- this Government Exhibit 18, the Glock model
23 26 that you received, with a standard stock Glock model 26?

24 A. I did. One of the things that is special about FATD is
25 that we maintain a national firearms collection of

1 approximately 12,000 to 15,000 firearms in our possession.

2 So oftentimes we can take a firearm that we get
3 for classification and then go compare it to a standard
4 stock firearm that we received from the company and then we
5 can look -- we can identify what has been changed on it.

6 In the case of this firearm, I went back to our
7 collection and I got a standard Glock 26 and I put them
8 side-by-side to look for modifications. In doing so, the
9 obvious thing that came to my attention was the Glock switch
10 on the back of the firearm.

11 Q. Generally based on your inspection and examination of
12 this firearm, what kind of condition was it in?

13 A. It's in very good condition. I would be honest to say
14 that it is in better condition than the pistol I carry on a
15 normal basis.

16 However, it does have some sort of residue on the
17 internal components that appears to be commonly found in
18 what we identify as gunshot residue.

19 My classification does not get into the chemical
20 analysis of that gunshot residue but it does appear to be
21 consistent with what we see frequently.

22 Q. Did you note whether the firearm had any rust?

23 A. I did not see any rust, corrosion, or debris inside this
24 firearm by any means. It is in good shape.

25 Q. No real wear and tear?

1 A. No real wear and tear.

2 Q. No dirt, foreign material inside it?

3 A. Not out of the ordinary dirt, no.

4 Q. Did it appear like new?

5 A. It appeared to be used but like new. You could tell
6 that there are indications of firearm magazines being
7 inserted into it, so there are scratches and scuffs, but
8 nothing out of the ordinary for a typical firearm.

9 MR. BEJAR: May I approach?

10 THE COURT: You may.

11 BY MR. BEJAR:

12 Q. There's a binder of exhibits there in front of you.

13 Could you please turn to tabs 21, 22 and 22A. And
14 please look at those and let me know after you have done so.

15 (Witness reviews documents)

16 A. Okay, sir.

17 Q. Do you recognize what's in Government Exhibits 21, 22
18 and 22A?

19 A. I do. These are photographs of the firearm that I
20 conducted an evaluation and classification on.

21 Q. And do they also show photos of comparison of the
22 firearm you received with a stock Glock 26?

23 A. Yes, they do. They are pictures that I took. On the
24 left is of the exhibit that was submitted to me and on the
25 right is a picture of the firearm that I got out of our

1 collection to compare them to.

2 Q. And what about 22A, do you recognize that as part of
3 your work on this case?

4 A. 22A is a diagram of how a typical Glock switch works.

5 The first page is a standard firearm, standard
6 Glock and how it is designed to function in a semi-automatic
7 configuration. And then the second picture is once you have
8 a Glock switch installed how it functions.

9 MR. BEJAR: Government offers Exhibits 21, 22 and
10 22A.

11 MS. ATWAL: No objection, Your Honor.

12 THE COURT: Those are received.

13 MR. BEJAR: Your Honor, I'm going to publish some
14 exhibits, if we could dim the lights, please.

15 THE COURT: Okay.

16 BY MR. BEJAR:

17 Q. Do you see Government Exhibit 21 on your monitor, sir?

18 A. I do.

19 Q. Can you tell us what we are looking at here?

20 A. The image on the left is the government exhibit that was
21 submitted to me for classification.

22 The image on the right is the firearm out of our
23 collection, a Glock 26 in standard semi-automatic
24 configuration.

25 On the picture on the left there is a blue circle

1 around the Glock switch installed on the back of the slide.
2 You can see it -- is this touchscreen? It is. Right here,
3 (indicating), looking up at the Glock switch on the back of
4 the firearm.

5 Q. So you've put an arrow indicating where the photo has
6 the blue circle on the Glock switch; is that correct?

7 A. Yes.

8 Q. And the picture to the right is a standard Glock model
9 26 without a switch; is that correct?

10 A. That is correct.

11 Q. I'm going to show you page 3 of this exhibit.

12 This is page 3 of Exhibit 21; is that correct?

13 A. That is.

14 Q. So what are -- this is -- tell us what this is, page 3.

15 A. This is a view from the back of the firearm's frame
16 without the slide attached.

17 Again, to remove the slide I had to remove the
18 Glock switch off the back of it and then slide the slide
19 forward, where I can now see the rearward side, rearward
20 view of the firearm frame itself.

21 Q. And you put a blue circle there on what appears to be a
22 notch. Is that the frame of the firearm that you examined?

23 A. So the blue circle is showing a section of the frame
24 that has been displaced. This section of the frame is
25 polymer and it has a metal insert on the inside of it that

1 you can see, I assume in a later photograph.

2 But this section is a polymer plastic that has to
3 be displaced for that Glock switch to be installed and
4 function.

5 You can tell that it is -- likely been forcefully
6 done because that piece of plastic is still attached and it
7 wasn't done with a file or a screwdriver or clippers of some
8 sort to get that piece removed. It looks like it was just
9 jammed shut in order to get that slide to close, allowing
10 that firearm to function.

11 Q. So to be clear, this is where the part of the Glock
12 switch that is installed on the firearm that you examined is
13 inserted to and makes contact with the frame; is that right?

14 A. Yes. This little notch would make clearance for the leg
15 of that conversion device to push on one of the internal
16 components which changes the function of that firearm to be
17 an automatic machine gun.

18 Q. Is it common to when someone is installing a switch on a
19 firearm that a modification like this has to be made?

20 A. It's very common. Oftentimes we see it done with tools,
21 or if it's not done with a tool, it is just forcefully put
22 in there and you'll result in this chipping or this removal
23 of the plastic just to get that piece installed properly.

24 Oftentimes firearms that have Glock switches on
25 them have to be hand fit to that specific Glock switch

1 because those Glock switches are not regulated by anybody.
2 They all have different specifications for manufacturing and
3 different tolerances. With those different tolerances, take
4 -- it takes a firearm a different amount of plastic to be
5 removed to accept that conversion device installed. So this
6 is very common for us to see.

7 Q. And this is page 4 of Exhibit 21. What do we see here?

8 A. This is a view on the top of looking down onto the frame
9 where you can see the trigger mechanisms inside.

10 This is -- there's no additional parts in this
11 that you would need to modify for the Glock switch to be
12 installed. However, that same notch that we were just
13 looking at on the last page is right here (indicating) and
14 it's very narrow. I'm not even going to draw an arrow to it
15 because you can't really tell. Can you zoom in?

16 Q. Does that help?

17 A. That does help.

18 Q. So where is that notch that you were talking about?

19 A. On that last picture we were look ago the this section
20 of plastic (indicating). That notch that was removed in
21 that last picture comes right through here (indicating) and
22 would continue to approximately here (indicating). That
23 section has been removed of the plastic, allowing for the
24 leg to be installed into this frame.

25 The lower picture that we're looking at is of the

1 slide that was removed to see the internal components. Back
2 here, this section, is where you would typically find the
3 Glock backplate or in this case it's been removed and the
4 machine gun conversion device, the Glock switch, was
5 installed in that section.

6 Q. So in order to install the switch you have to remove
7 that backplate from a standard Glock in order to fit the
8 switch and sort of jam it in there?

9 A. Yes, you do.

10 Q. I'm trying to get to page 2 of Exhibit 21. There we go.

11 This is page 2 of Government Exhibit 21. What do
12 we see here?

13 A. Again, this is a comparison of the exhibit that I
14 received for classification on the left, compared to the
15 Glock 26 from our collection.

16 On the back section of the exhibit that we
17 received, you can see the Glock switch installed here
18 (indicating), here (indicating), and here (indicating), as
19 opposed to just a different angle of the standard Glock
20 switch, which you will find here (indicating), it's hard to
21 draw with these arrows. But on the standard Glock
22 backplates they're flush with the slide and there's little
23 grooves that help you with the installation and removal of
24 that backplate, but it is flush with the back of this slide.

25 Q. So I'm going to zoom in on this middle picture. And can

1 you just take your finger and circle the backplate on the
2 standard Glock that needs to be removed.

3 A. (Indicating).

4 Q. And then could you circle the switch in that same
5 position on the gun that you received.

6 A. Yes.

7 Q. And how is that backplate removed normally?

8 A. When you slide to the rear, you need to have a punch or
9 a pin to depress a plunger on the inside of the slide and
10 then you can use your thumb or a finger to slide that
11 standard backplate down and it will take it off of the
12 slide.

13 Q. Now we see in the gun with the switch, which is the gun
14 you examined, it has something protruding. Can you explain
15 what that is.

16 A. The area to the left right here (indicating) is the
17 selector switch. In this case it's in a semi-automatic
18 position because it is pushed on the right side, projecting
19 that toggle switch or the selector switch to the left.

20 To put it into the automatic mode you would push
21 onto that side where that arrow is, pushing it to the right
22 and it would move the leg on the inside of the switch or on
23 the bottom slide of the switch, making it go into the
24 automatic configuration.

25 Q. Now showing you the first page of Government Exhibit 22.

1 Could you, again, point out the switch.

2 A. Yes. In all three images it's zoomed in on the back of
3 that slide.

4 Q. And now the selector switch, that bar that you
5 discussed, seems to be pushed to the other side; is that
6 correct?

7 A. Yes, it's been pushed into the left, which would put the
8 leg in the automatic fire position.

9 Q. So the -- when the sort of fatter part of the selector
10 switch is protruding out to the left, that semi-automatic
11 mode, and when the thinner part with the little wheel is on
12 the right, that's fully automatic mode?

13 A. That's correct.

14 Q. What do we see here on page 2 of Government Exhibit 22?

15 A. This is a view of a comparison, again, from the bottom
16 up, is where you're looking, the way you're oriented.

17 So you're looking at the bottom of the selector,
18 I'm sorry, the bottom of the switch installed on this slide
19 where you can see the housing, the selector switch, and then
20 in this section here (indicating) is the leg that goes in
21 there. Can you clear that for me?

22 So from this view you can see that the leg is
23 protruding out of the housing a little bit. In the
24 difference of tolerances you can also see that the leg is a
25 little crooked. Oftentimes this is because it is made by a

1 cheap manufacturer or a bad quality that doesn't have
2 specific specifications made to have good quality
3 manufacturing products.

4 If you look at the image on the right, you also
5 have a side angle of it. You can actually see that the leg
6 is protruding up. There's a section here (indicating) that
7 comes out of the housing. That is the section that goes
8 through the firearm frame making it displace that plastic,
9 if it hasn't already -- if that plastic hasn't already been
10 moved with a tool or a file.

11 Q. So that edge of the leg of the switch is what would have
12 caused the notch in the frame; is that correct?

13 A. Yes, that is.

14 Q. What do we see here on page 3 of Government Exhibit 22.

15 A. On the left you have a view of a selector that's in the
16 semi-automatic position and on the right you have a view of
17 the selector switch that is in the automatic position.

18 If you notice between those two different
19 pictures, there's a very small -- there's a very small
20 difference between this line and this line.

21 The one on the right in the automatic position
22 pushes that leg forward on the slide ever so slightly, which
23 is enough to change the function of that firearm.

24 That difference is roughly the thickness of a zip
25 tie, very small tolerances. And because of those small

1 changes that are occurring when you move that switch and the
2 bad tolerances of manufacturing, that's what oftentimes
3 makes this not work properly or as it was originally
4 designed.

5 Q. So can you just zoom in, just draw a line on the actual
6 leg, just for the jury understand when you say the leg of
7 the switch what you're talking about. Just draw a red line
8 right on the leg.

9 A. This is the side of the leg (indicating) and then it
10 comes across. And I circled it.

11 Q. So you've circled the leg there, correct?

12 A. Yes.

13 Q. And, again, this picture that you just drew on the
14 right, this is full automatic mode, correct?

15 A. Yes, it is.

16 Q. And then the picture on the left is semi-automatic mode.

17 A. Yes.

18 Q. And, again, the only difference is the little gap that
19 we see at the bottom with the leg moving forward slightly.

20 A. That is the difference. When you move that selector
21 switch from one side to the other, it changes the distance
22 that that leg travels forward.

23 Q. Is it common for that selector switch to move with
24 vibrations from when it's being fired? Can it go in and out
25 of semi-automatic and full automatic mode?

1 A. It's very common for that selector switch to walk or
2 shift during fire from the vibrations and the movement of
3 the firearm. Because it is a mechanical action, oftentimes
4 it just slips.

5 And, again, being poor quality, the selector
6 switch will oftentimes get worn out and it just will allow
7 you to roll from one side to the other. Very frequently it
8 will move during firing.

9 Q. And so when you're in -- if you think you're in
10 semi-automatic mode it can still fire in fully automatic
11 mode if the switch not -- is just off by a little bit; is
12 that fair to say?

13 A. That is very fair to say.

14 If you look at the picture on the right, in that
15 gap here (indicating), there is a line that goes -- there,
16 it's pointing to on the left.

17 There's a very small line there. That is a
18 probably three thousandths of a inch lip on the selector
19 switch that is meant to hold that switch in place, but it
20 gets worn out very frequently and that's the only thing
21 preventing that selector from shifting, so it will very
22 frequently fail. And in this case, you can even see that it
23 is worn out a little bit because of the coloration change on
24 that selector switch.

25 Q. As part of your examination do you also remove the

1 switch and inspect it as well?

2 A. I do. We make sure that the components are documented
3 before I remove the Glock switch, photographed, and if
4 there's anything out of the ordinary I annotate that, then I
5 remove it and look at the conversion device itself to look
6 at its quality and if there's any defect on it.

7 Q. What do we see here on page 4 of Government Exhibit 22?

8 A. This is the Glock switch that has been removed from the
9 exhibit. You can see it's approximately one inch by one
10 inch from the longest section of the leg, all the way
11 through the housing, and then the selector switch protruding
12 out the side also one inch.

13 Q. And, again, just to orient the jury, can you put a red
14 line on where the leg is?

15 A. Yes, the leg is this section right through here
16 (indicating).

17 Q. And then when you say the housing, can you sort of
18 indicate what that is by perhaps circling it.

19 A. That's the housing which holds the leg in place and then
20 the selector switch goes through the housing, all the way
21 through, and can be switched from semi-automatic to
22 automatic configuration.

23 Q. And this is page 5 of the Government Exhibit 22. What
24 do we see here?

25 A. This is, again, the Glock switch that has been removed,

1 and it's compared to a patent that was filed in the United
2 States by a company other than Glock saying that this is a
3 fire select system. It is in the orientation as the patent
4 just to show that it is similar to that same type of patent.

5 In the pictures in the top you can see that,
6 again, selector switch is currently centered instead of from
7 one side to the other.

8 Q. And what does that indicate that it's centered? It's
9 not pushed into fully automatic mode, it's not pushed into
10 semi-automatic mode; is that right?

11 A. That is correct.

12 Q. And what does that indicate to you?

13 A. More than likely it will still function as an automatic
14 as a machine gun because it's still on the thicker section
15 of that selector switch. But with it -- without being one
16 side or the other, it's hard to tell what configuration it
17 would fire until you squeeze a trigger and fire it.

18 Q. And this is indicative of what you had testified earlier
19 about the cheap way that these are manufactured and they can
20 slide in and out; is that right?

21 A. Yes.

22 Q. So in looking at all of these comparison photos that
23 we've reviewed, in your training and experience, is the
24 switch prominent enough that someone who's familiar with
25 Glock firearms or even firearms in general would notice a

1 difference between a regular Glock and one with a switch
2 installed?

3 A. It is my opinion as the expert for identifying is that,
4 yes, if you have handled or viewed firearms lately, you
5 would probably recognize that something is different on this
6 more than just out of place.

7 The Glock firearm is the most common firearm in
8 the United States right now. It is by far the most popular
9 handgun in the United States. And if you're familiar with a
10 Glock in a standard configuration, you would notice that
11 this is not in that same thing, the same identifying
12 characteristics on that slide.

13 Q. So after you field stripped it and took these comparison
14 photos, what did you do next in your examination procedure?

15 A. I resembled it and I function checked it at my work
16 area.

17 Q. And what is a function check?

18 A. A function check is making sure that the firearm
19 operates and cycles as it should without having any
20 energetic component like a bullet installed in it. So it's
21 still safe for handling. It's a mechanical check of the
22 firearm.

23 Q. Did you do this mechanical function check with the
24 selector switch in both the semi-automatic and full
25 automatic position?

1 A. I did. And in both instances it functioned check as a
2 machine gun.

3 Q. So what does that mean it functioned checked as a
4 machine gun?

5 A. As I was function checking it trying to identify how the
6 firearm would likely shoot, it was not resetting the trigger
7 properly so I could identify that something was not in the
8 standard configuration of a Glock in a semi-automatic
9 configuration. Because it was function checking as a
10 machine gun on either side, I assumed that it would not be
11 able to function as a semi-automatic unless something else
12 was altered on it.

13 Q. So the function check indicated that when you pulled the
14 trigger it would have continuously fired without reloading?

15 A. Yes. Without resetting that trigger, the firearm would
16 continue to fire as a machine gun until either you released
17 the trigger or you ran out of ammunition.

18 Q. So that -- even though it was in semi-automatic mode it
19 still functioned-- function checked as a machine gun; is
20 that right?

21 A. It manually function checked as a machine gun, correct.

22 Q. Can you just briefly explain how, we've seen the switch,
23 we've seen the leg that you've talked about, how does that
24 switch interact with, I believe you said the trigger bar
25 inside the gun, just generally, to make it fully work as a

1 machine gun?

2 A. So to understand how it works as a machine gun it's
3 easiest to understand how it works as a semi-automatic
4 first.

5 In a standard Glock you would have a trigger bar
6 that is this section here (indicating).

7 MR. BEJAR: So just for the record, I'm showing
8 Government Exhibit 22A.

9 THE WITNESS: This trigger bar is interacting with
10 the firing pin, which is just below the line I just drew.

11 There's a blue circle where you can see the firing
12 pin is being held in place by that trigger bar.

13 When you squeeze the trigger, that trigger bar
14 moves rearward and then downward, which releases that firing
15 pin and allows it to go forward, hitting the ammunition,
16 causing the bullet to come out the end of the barrel.

17 In a standard Glock, the energy of the bullet
18 would cycle that slide and push that slide rearward pass the
19 point of that trigger bar lip, which is called a cruciform,
20 and it would catch the action of the trigger or the firing
21 pin here (indicating) causing it to stop cycling as a
22 machine gun and it would stop the cycle of fire, resetting
23 the trigger.

24 BY MR. BEJAR:

25 Q. Which would then only allow you to shoot one bullet from

1 the single pull of a trigger?

2 A. That is correct.

3 Q. And then page 2 of 22A.

4 So is this showing how it interacts with the
5 trigger bar when the switch is installed?

6 A. This is an image of the Glock switch being installed and
7 the image that's zoomed in right now you can see that it's
8 in the semi-automatic configuration because that leg, which
9 is this triangular section here, is not contacting that
10 trigger bar. Can you clear that, please.

11 Once you shift that selector switch into the
12 automatic mode it pushes that leg forward which then
13 contacts that trigger bar seer section and pushes down that
14 trigger bar. When that trigger bar is pushed down and out
15 of the way, there's no way for that trigger bar to catch the
16 firing pin and reset it, stopping from firing.

17 In order for it to continue shooting in the
18 semi-automatic configuration, you would need to catch that
19 firing pin and stop.

20 And the fact that that leg is now pushing the
21 trigger bar down and out of the way, it will continue to
22 fire until you release the trigger or until you're out of
23 ammunition.

24 Q. By the single pull of a trigger.

25 A. By the single pull of a trigger.

1 Q. So after you performed this manual function test-fire,
2 where you found it functioned as a machine gun in both
3 semi-automatic and automatic mode, what did you do? Did you
4 actually test-fire the gun?

5 A. Yes, at that point normally in my inspection or
6 classification I have already made sure that it's safe to
7 handle, so I would take it into the range and shoot it, and
8 that's exactly what I did.

9 We have a range in our office located in
10 Martinsburg, West Virginia where we can shoot it onsite with
11 a standard commercially bought ammunition we have. There's
12 nothing specific about the ammunition, nothing specific,
13 that it's for the ATF testing purposes.

14 Q. Could you briefly describe what you did to test-fire it
15 and what you found.

16 A. Yes. Following our standard operation procedures for
17 test-fire, we always start out with just one bullet to make
18 sure that the firearm functions. So I installed a magazine
19 with one round and cycled it so it loaded that round into
20 the chamber.

21 I squeezed the trigger and it did expel the
22 projectile by action of explosives showing that this exhibit
23 is a firearm at this point and it is capable of shooting.

24 Q. And then did you load it with additional rounds to
25 test-fire it in either the semi-automatic or the full

1 automatic mode?

2 A. I did. After determining that it is capable of
3 discharging a firearm, that's the next step of our
4 procedures, we load two rounds of ammunition to the magazine
5 and then load the magazine into the firearm.

6 I had the selector switch set to semiautomatic
7 fire and when I pulled the trigger it fired both rounds
8 separately with independent pulls of the trigger, so two
9 pulls, two rounds per shot, not as an automatic firearm.

10 At this point I reloaded a second magazine again
11 with two rounds installed on that magazine and I moved the
12 selector switch over to the automatic fire position.

13 When I shot at the first round fired and a second
14 round did not. I noticed that the selector switch had
15 shifted during firing and it was slightly out of contact
16 with the full automatic position.

17 I also noticed, as I cleared the weapon to make
18 sure it was safe to handle again, I noticed that there was
19 indication on the ammunition saying that the primer had been
20 struck by the firing pin. And this is common that the
21 firing pin will still strike the ammunition, it's just very
22 softly touching it, so it wasn't the same impact as the full
23 force of it being with the firing pin smashing into the back
24 of the primer.

25 That oftentimes can be caused by the selector

1 switch shifting during firing, or ammunition being separate
2 loads, different tolerances of powder and energy in that
3 ammunition, and it can also be caused by the shooter's grip
4 and how they're manipulating the firearm.

5 Q. Were you able to get this Government Exhibit 18 to
6 test-fire and have it shoot in full automatic mode?

7 A. Yes. I took that selector switch and pushed it more to
8 the right side, again, all the way into the automatic
9 position and loaded up a magazine of three rounds at this
10 point. And as I squeezed the trigger it did fire all three
11 rounds with a single function and trigger automatically.

12 Q. So based on your training and experience, and your
13 examination of the firearm, what did you conclude?

14 A. So I concluded that exhibit -- the exhibit that was
15 given to me, with the Glock switch installed did function
16 and shoot automatically as a machine gun.

17 Q. And it meets the federal definition of a machine gun?

18 A. Yes, it does, based off of the fact that it shot more
19 than one round automatically without manually reloading by a
20 single function of the trigger, it does qualify as a machine
21 gun.

22 Q. What about the switch itself? What does that qualify
23 as?

24 A. The switch itself is also a machine gun. A second --
25 actually the third section of the machine gun definition

1 allows for a combination of parts designed and intended to
2 convert a firearm into a machine gun as a machine gun
3 itself.

4 So the conversion device, in this case a Glock
5 switch, is a combination of parts designing to convert a
6 machine -- a firearm into a machine gun and therefore it is
7 a machine gun in and of itself.

8 Q. You authored and submitted a technical report based on
9 your inspection, examination, findings and conclusions?

10 A. I did. I summarized all of my findings and I submitted
11 that to the ATF agent that was involved.

12 Q. And the exhibits that we have we've reviewed here were
13 part of your technical report?

14 A. Yes.

15 Q. And was that the end of the your examination of the
16 firearm?

17 A. Yes. At that point I ship my report and the evidence
18 back to the agent.

19 MR. BEJAR: May I have a moment, Your Honor?

20 THE COURT: You may.

21 (Counsel confer)

22 MR. BEJAR: No further questions.

23 THE COURT: You may inquire, if you wish, counsel.

24

25

CROSS-EXAMINATION

BY MS. ATWAL:

Q. Good morning, Mr. Ford [sic] -- or Mr. Evans, I'm sorry.
Pardon me. I apologize.

A. No problem. Mr. Evans.

Q. Thank you. I apologize.

Mr. Evans, I just wanted to make sure, you
received this exhibit on January 20th of 2023?

A. I believe that I took custody of it on January 23rd. I
would want to double check the box for my signature and date
on that.

MS. ATWAL: Okay. Your Honor, may I approach?

THE COURT: You may.

(Counsel confer)

THE WITNESS: Yes, so on the box itself it shows
the property custody where I received -- I personally
received the exhibit for classification.

On my report it does indicate that that firearm,
that exhibit was received by the FATD office on January of
2023. I did personally not receive it from our evidence
custodian until three days later.

Q. Of this year?

A. Of this year.

Q. Of this year?

A. Yes, of 2023.

1 MS. ATWAL: Thank you. I have nothing further.

2 Thank you, Your Honor.

3 THE COURT: Anything further, counsel?

4 MR. BEJAR: Nothing further.

5 THE COURT: You may step down, sir. Thank you.

6 THE WITNESS: Thank you, sir.

7 (Testimony concluded at 11:23 a.m.)

8 * * *

9 **REPORTER'S CERTIFICATE**

10

11

12 I, Lynne M. Krenz, do certify the foregoing
13 pages of typewritten material constitute a full, true and
14 correct transcript of the digital recording, as they purport
15 to contain, of the proceedings recorded at the time and
16 place hereinbefore mentioned.

17

18

/s/Lynne M. Krenz

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Lynne M. Krenz, RMR, CRR, CRC

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